

FILED & ENTERED

MAY 26 2017

CLERK U.S. BANKRUPTCY COURT
Central District of California
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NOT FOR PUBLICATION

**UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION**

In re:

MARIA VIRGINIA MARTI,

Debtor.

Case No. 2:16-bk-17064-RK

Adv. No. 2:16-ap-01270-RK

Chapter 7

ORDER DENYING DEFENDANT'S MOTION
TO COMPEL FURTHER RESPONSE TO
DISCOVERY AND REQUEST FOR
SANCTIONS

MARIO ROMERO,

Plaintiff,

vs.

MARIA VIRGINIA MARTI,

Defendant.

Date: May 30, 2017

Time: 3:30 p.m.

Courtroom: 1675

Pending in this adversary proceeding is a Motion to Compel Further Response to
Discovery (Interrogatories and Request for Production) and Request for Sanctions

1 (“Motion”) (Docket No. 116) filed by Defendant Maria Virginia Marti (“Defendant”). The
2 Motion was noticed for hearing on May 30, 2017 at 3:30 p.m. Derek L. Tabone, of the
3 Law Offices of Tabone, APC, represents Defendant/Movant. Dimitrios P. Biller, of LDT
4 Consulting, Inc., represents Plaintiff/Respondent.

5 The court determines that pursuant to Local Bankruptcy Rule 9013-1(j)(3), oral
6 argument is not necessary and dispenses with it, takes the matter under submission
7 and vacates the hearing on May 30, 2017, and no appearances are required on May 30,
8 2017.

9 Because the motion seeks to resolve discovery disputes arising under Federal
10 Rules of Civil Procedure 33 and 34, made applicable to this adversary proceeding under
11 Federal Rules of Bankruptcy Procedure 7033 and 7034, the motion is subject to the
12 “meet and confer” requirements of Federal Rule of Civil Procedure 37(a)(1) and Local
13 Bankruptcy Rule 7026-1(c).

14 Federal Rule of Civil Procedure 37(a)(1) states: “On notice to other parties and
15 all affected persons, a party may move for an order compelling disclosure or discovery.
16 The motion must include a certification that movant has in good faith conferred or
17 attempted to confer with the person or party failing to make disclosure or discovery in an
18 effort to obtain it without court action.”

19 Local Bankruptcy Rule 7026-1(c)(2) states: “Prior to the filing of any motion
20 relating to discovery, counsel for the parties must meet in person or by telephone in a
21 good faith effort to resolve a discovery dispute. It is the responsibility of counsel for the
22 moving party to arrange the conference. Unless altered by agreement of the parties or
23 by order of the court for cause shown, counsel for the opposing party must meet with
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1 counsel for the moving party within 7 days of service upon counsel of a letter requesting
2 such meeting and specifying the terms of the discovery order to be sought.”

3 If the parties are unable to resolve their dispute, then Local Bankruptcy Rule
4 7026-1(c)(3) requires that the party seeking discovery must submit with the cooperation
5 of the other party a discovery dispute stipulation in one document identifying separately
6 and with particularity each disputed issue that remains to be determined by the court
7 and the contentions and points and authorities of each party. In the absence of this
8 stipulation or a declaration of lack of noncooperation of the other party, the court will not
9 consider the discovery motion.
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11 Defendant in her motion papers fails to show that she has met the procedural
12 requirements requiring a conference in person or by telephone to discuss the discovery
13 disputes before any discovery dispute motions are filed and requiring the submission of
14 a written discovery dispute stipulation identifying and discussing the contentions and
15 points and authorities for the positions of the parties on each issue raised by their
16 disputed discovery disputes as required by these rules. Pursuant to Local Bankruptcy
17 Rule 7026-1(c), the court will not consider defendant’s discovery motion until these
18 requirements are met.
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1 The motion is DENIED WITHOUT PREJUDICE. Defendant may file and serve
2 an amended motion once she has satisfied the “meet and confer” requirements of
3 Federal Rule of Civil Procedure 37(a)(1) and Local Bankruptcy Rule 7026-1 and if the
4 motion is timely under the applicable scheduling orders in this matter.

5 IT IS SO ORDERED.

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Date: May 26, 2017



Robert Kwan
United States Bankruptcy Judge